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ATTORNEY'S DOCKET NO: C1104-7082.21

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: George G. Mueller and Ihor A. Lys
Serial No: Not yet assigned
Confirm No.: Not yet assigned
Filed: March 26, 2004
For: MULTICOLORED LIGHTING METHOD AND APPARATUS

Examiner: not yet assigned
Art Unit: not yet assigned

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**STATEMENT FILED PURSUANT TO THE DUTY OF
DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98**

Sir/Madam:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicant requests consideration of this Information Disclosure Statement.

PART I: Compliance with 37 C.F.R. §1.97

This Information Disclosure Statement has been filed before the mailing date of a first Office Action on the merits in the above-identified case.

No fee or certification is required.

PART II: Information Cited

The Applicants hereby make of record in the above-identified application the information listed on the attached form PTO-1449 (modified). The order of presentation of the references should not be construed as an indication of the importance of the references.

The Applicants would also like to bring to the Examiner's attention the following co-pending application that may contain subject matter related to this application.

<u>Serial No.</u>	<u>Filing Date</u>	<u>Inventor(s)</u>
09/669,121	09/25/2000	George G. Mueller, et al.
09/805,368	03/13/2001	Kevin J. Dowling, et al.
09/805,590	03/13/2001	Kevin J. Dowling, et al.
09/971,367	10/04/2001	George G. Mueller, et al.

The Applicants also wish to bring to the attention of the Examiner the following information:

Pursuant to MPEP §2001.06(c), Applicants bring to the Examiner's attention that two U.S. patents currently assigned to the same assignee of the present application (i.e., Color Kinetics, Inc.) have been involved in litigation. These patents include U.S. Patent No. 6,016,038 (U.S. Serial No. 08/920,156) and U.S. Patent No. 6,150,774 (U.S. Serial No. 09/425,770), both assigned to Color Kinetics, Inc. The present application is a continuation of Serial No. 09/971,367, which is a continuation of 09/669,121, which is a continuation of 09/425,770, which is a continuation of Serial No. 08/920,156.

The aforementioned patents both are involved in the following litigations: Case No. 6:02-cv-270-ORL-19JGG in the United States District Court, Middle District of Florida, Orlando Division, and Case No. 02 CV 11137MEL in the United States District Court, District of Massachusetts.

Applicants acknowledge the duty to disclose to the U.S. Patent Office material information that may arise from these litigations, including evidence of possible prior public use or sales, questions of inventorship, prior art, allegations of "fraud," "inequitable conduct," and "violation of duty of disclosure," or any assertion which is contradictory to assertions made to the Examiner during prosecution of the present application.

To this end, Applicants submit to the Examiner in the present Information Disclosure Statement various prior art that arose in connection with the above-identified litigations. Applicants also wish to make of record in the present application the following documents from the litigations:

A. Case No. 6:02-cv-270-ORL-19JGG

1. Plaintiff's Amended Verified Complaint
2. Defendant's Answer and Counterclaims
3. Plaintiff's Answer to Counterclaims
4. Plaintiff's Answers to Defendant's First Set of Interrogatories

Three exhibits originally accompanied document 4 above: Exhibit 1, which is an affidavit of Kevin Furry and Chuck Somerville; Exhibit 2, which is a confidential financial statement furnished by the Plaintiff; and Exhibit 3, which is a confidential opinion of counsel obtained by the Plaintiff relating to validity and non-infringement of the asserted patents. Exhibit 1 is cited herein (and appears on the accompanying PTO Form-1449). Both Exhibits 2 and 3 accompanying document 4 were marked "Confidential," pursuant to a Confidentiality Agreement between the parties in the Florida case, and hence have not been disclosed to the United States Patent and Trademark Office.

B. Case No. 02 CV 11137MEL

1. Plaintiff's Complaint and Jury Demand
2. Defendant's Answer and Affirmative Defenses

Applicants make no representation that the documents identified herein relating to these litigations provide information material to the examination of the present application. Applicants make these documents of record in the present application primarily for completeness to facilitate the Examiner's understanding of the nature of these litigations. The Examiner is urged

to form his or her own conclusion regarding the relevance of the information contained in these documents.

PART III: Explanation of Non-English Language References

The following is a concise explanation of the relevance of each non-English language reference listed on the attached form PTO-1449 (modified):

Some of the references listed on the attached form PTO-1449 (modified) were cited in at least one of five oppositions filed against a European counterpart to U.S. Patent No. 6,016,038 (U.S. Serial No. 08/920,156), discussed above in Part II. The European counterpart is EP Patent No. 1,016,062, EP Serial No. 98944539.0. Again, the present application, like U.S. Serial No. 08/920,156, currently is assigned to Color Kinetics, Inc., and is related as a great-great grandchild of U.S. Serial no. 08/920,156.

Applicants make no representation that the documents cited herein relating to the European oppositions provide information material to the examination of the present application. Applicants make these documents of record in the present application primarily for completeness to facilitate the Examiner's understanding of the nature of these oppositions. The Examiner is urged to form his or her own conclusion regarding the relevance of the information contained in these documents.

PART IV: Remarks

Documents cited anywhere in the Information Disclosure Statement are enclosed unless otherwise indicated. It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;

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3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

Notwithstanding any statements by the Applicant, the Examiner is urged to form his own conclusion regarding the relevance of the cited information.

An early and favorable action is hereby requested.

Respectfully submitted,
George G. Mueller, et al.

By: 

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U.S. PATENT DOCUMENTS

Examiner's Initials#	Cite No.	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication or of issue of Cited Document MM-DD-YYYY
		Number	Kind Code		
		* US 2003/0189412	A1	Cunningham	10/09/2003
		* US 2001/0033488	A1	Chliwnyj, et al.	10/25/2001
		* US 2002/0047624	A1	Stam, et al.	04/25/2002
		* Re. 36,030		Nadeau	01/05/1999
		* 2,909,097		A.E. Alden, et al.	10/20/1959
		* 3,318,185		Kott	05/09/1967
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		* 3,740,570		Kaelin et al.	06/19/1973
		* 3,746,918		Drucker, et al.	07/17/1973
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		* 3,858,086		Anderson, et al.	12/31/1974
		* 3,909,670		Wakamatsu, et al.	09/30/1975
		* 3,924,120		Cox, III	12/02/1975
		* 3,958,885		Stockinger, et al.	05/25/1976
		* 3,974,637		Bergey, et al.	08/17/1976
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		* 4,271,408		Teshima, et al.	06/02/1981
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		* 4,298,869		Okuno	11/03/1981
		* 4,329,625		Nishizawa, et al.	05/11/1982
		* 4,339,788		White et al.	07/13/1982
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		* 4,367,464		Kurahashi, et al.	12/04/1983
		* 4,388,567		Yamazaki, et al.	06/14/1983
		* 4,388,589		Molldrem, Jr.	06/14/1983
		* 4,392,187		Bornhorst	07/05/1983
		* 4,420,711		Takahashi, et al.	12/13/1983

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		* 4,656,398		Michael, et al.	04/07/1987
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		* 4,740,882		Miller	04/26/1988
		* 4,753,148		Johnson	06/28/1988
		* 4,771,274		Havel	09/13/1988
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		* 4,794,383		Havel	12/27/1988
		*4,824,269		Havel	04/25/1989
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				APPLICANT:	George G. Mueller and Ihor A. Lys			
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